IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No.20501 of 2003

Between:

1 P. Raja Gopal Reddy S/o P. Narayana Reddy
R/o H.No. 45/24/29K, Ashoknagar, Kurnool.
2 M.V. Mahesh S/o Sri M. Venkateswarlu
R/o 28/446. , Nunapalli, Nandyal, Kurnool.
3 E. Srinivasulu Goud, S/o E.J.M. Goud,
R/o H.No. 45/142-A-49, Venkataramana Colony, Kurnool.
4 B. Somaiah S.o B.J.P. Rao
R/o Koratamaddi Village, Gadivemula Mandal,
Nandyal Taluq, Kurnool District.

..... PETITIONERS

AND

1 A.P.S.R.T.C., Rep. by its Managing Director,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Kurnool Region,
Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the action of the respondents in not regularly appointing the petitioners as conductors under the recruitment of dependents of Employees died in harness under Bread Winner Scheme in pursuance of the selection held for the post of Conductor under Bread Winner Scheme is illegal and arbitrary and consequently direct the respondents to appoint the petitioners as coductors on regular basis from the date of initial appointment with all consequential monetory benefits.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent : MR.P.VINAYAKA SWAMY FOR R

The Court made the following :

ORDER:

Challenging the action of the respondents in not regularly appointing the petitioners as conductors in recruitment of dependents of employees died in harness in pursuance of the selection made under Bread Winner Scheme as arbitrary and illegal, the present writ petition is filed.

The petitioners were appointed on compassionate grounds under a duly constituted selection committee. The Andhra Pradesh State Transport Corporation has framed a scheme for providing compassionate appointments to the dependents of the employees who died in harness under the scheme. The Corporation issued a circular dated 18.10.1989 to follow certain instructions by the recruiting authorities. Another circular dated 05.05.2000 reiterating the same conditions for appointment in the existing vacancies was also issued. The Regional Manager- the second respondent has called for an interview for selection to the post of conductor and the petitioners were appointed in the selection process. But, months thereafter, the second respondent by his order dated 26.05.2003 directed for utilization of the services of the petitioners on temporary basis in Ranga Reddy region and therefore, the petitioners are entitled to be regularized in the existing vacancies. Hence this writ petition.

The respondents filed a counter-affidavit admitting that the corporation has launched a scheme for providing compassionate appointment to the dependents of the employees who died in harness under the scheme. There is excess of staff in the corporation and due to non-availability of regular conductor vacancies, the petitioners have not been appointed as conductors. Therefore, the petitioners were directed to Mahabub Nagar region for temporary utilization as conductors. As per the scheme, the candidates can be appointed only against the sanctioned vacancies and in view of the non-availability of regular conductor vacancies, the petitioners

could not be appointed.

The learned counsel for the petitioners contended that though the petitioners were appointed on daily wage basis as conductors, they were appointed by regularly constituted selection committee under the scheme and since they have been working since 2002, their services have to be regularized in accordance with the regulationsrs.

On the other hand, learned Standing counsel for the corporation vehemently contended that there are no vacancies for regularizing the services of the petitioners and that the petitioners were appointed on a daily wage basis and in view of non-availability of regular conductor vacancies the petitioners' services cannot be regularized. Hence the petition is devoid of merit and is liable to be set aside.

As per the circular PD.No. 135 dated 18.10.1989, the wife or children of a deceased employee may be appointed against the existing vacancies by direct recruitment on regular basis as stipulated in circulars 1 and 2 on priority basis duly following the panel, if any rule exists to that extent. These circulars govern the recruitment of children/spouses of employees who died in harness against direct recruitment posts. The same thing has been reiterated in the memo dated 24.06.1991. So there is no dispute about the appointment to the children of the deceased employees who died in harness. The third petitioner was called for an interview before the selection committee for conductor under the scheme by virtue of proceedings dated 22.03.2001. So also, the first petitioner was called for an interview for the post of conductor dated 28.07.2001. The first petitioner was provisionally selected as conductor Grade-II under the scheme by virtue of the proceedings dated 11.01.2001. Petitioners 1,2 and 4 were also directed to undergo for theoretical and practical training at State Training College by virtue of the proceedings dated 17.11.2001, whereas the fourth petitioner was selected for the post of conductor by virtue of the proceedings dated 21.05.2002. So from these proceedings, it can be said that the petitioners were selected as Grade-II Conductors by a duly constituted selection committee under the scheme. As rightly contended by the learned counsel for the petitioners that unless there are existing vacancies the question of calling the candidates for interview does not arise. Since all the circulars would go to show that the children of the deceased employees can be appointed against existing vacancies, the contention of the learned counsel for the respondents that in order to test the suitability of the persons they were called for interview, is totally devoid of

merit and untenable because the call letters issued to the petitioners do not indicate that they were being called to test the suitability. On the other hand, these call letters would clearly go to show that they were directed to appear before the selection committee for the post of conductor Grade-II for consideration and as a matter of fact they were also directed to undergo training and required to pass the required test. It is not specifically stated in the counter-affidavit that the conductor Grade-II vacancies do not exist as on the date of appointment of the petitioners. Even at the time of selection process, it is not stated that the petitioners were called for the interview on daily wage basis. Therefore, I have no hesitation to hold that the services of the petitioners have to be regularized since they were selected by the duly constituted selection committee under the scheme.

Therefore, the writ petition is allowed directing the respondent to regularize the services of the petitioners. No costs.

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09.06.2005

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To

1 The Managing Director, A.P.S.R.T.C.,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Kurnool Region,
Kurnool District.

3 2 CD copies

4 1 CC to MR.VIDYASAGAR.